

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MARK SAM,

Plaintiff,

-against-

COHEN & SLAMOWITZ, LLC, MITCHELL SELIP,
MITCHELL G. SLAMOWITZ, and DAVID A.
COHEN,

Defendants.

Index No. 1:14-CV-00611-JTC

**AFFIRMATION OF JOSEPH
L. FRANCOEUR IN SUPPORT
OF DEFENDANTS' MOTION
FOR JUDGMENT ON THE
PLEADINGS AND IN
OPPOSITION TO
PLAINTIFF'S MOTION FOR
CLASS CERTIFICATION**

Joseph L. Francoeur, an attorney duly admitted to practice law in the courts of the State of New York, affirms the following under penalties of perjury:

1. I am a member of the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, attorneys for the defendants, COHEN & SLAMOWITZ, LLP, MITCHELL SELIP, MITCHELL G. SLAMOWITZ, and DAVID A. COHEN and I am fully familiar with the facts and circumstances of the within action by virtue of my review of the file maintained by this office.
2. Annexed hereto as Exhibit A is a true and accurate copy of plaintiff's Class Action Complaint dated July 29, 2014.
3. Annexed hereto as Exhibit B is a true and accurate copy of Defendants' Answer dated September 25, 2014 attaching an Affidavit of Service, showing service upon Mark Sam on February 1, 2007.
4. Annexed hereto as Exhibit C is a true and accurate copy of the fully executed Class Action Settlement Agreement and Release of Claims, filed March 21, 2014 in the *Coble v. Cohen & Slamowitz* matter.

5. Annexed hereto as Exhibit D is a true and accurate copy of the Final Approval Order and Judgment, dated October 9, 2014 in the *Coble v. Cohen & Slamowitz* matter. This order approves the contents of the settlement agreement, attached as Exhibit B.

6. The exhibits support a finding of Judgment for the Defendants and/or a denial of class certification because the Coble matter distinctly allows the activity at issue in this claim.

WHEREFORE, defendants, COHEN & SLAMOWITZ, LLP, MITCHELL SELIP, MITCHELL G. SLAMOWITZ, and DAVID A. COHEN, respectfully request that this Court grant this cross motion for judgment on the pleadings, as well as any such other and further relief as the Court may deem just and proper.

Dated: October 17, 2014
New York, New York



Joseph L. Francoeur, Esq.